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ABSTRACT

Intended as a guide for Texas school districts wishing to adopt or modify a student code of conduct, this proposed code describes a positive learning atmosphere, specifies conduct that disrupts such an environment, assures the rights and responsibilities of students, and standardizes procedures to be used in responding to disciplinary problems. Specific topics are organized under four general headings: responsibilities of the school community, student rights and responsibilities, student discipline, and posting of offenses. The appendices include an overview of the process by which judicial proceedings may be instituted when individuals commit acts prohibited by law and two alternative approaches to corporal punishment. Sample handouts listing student responsibilities at the elementary, junior high, and high school levels are attached. (WD)

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Voluntary Student Code of Conduct

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Mark White, Attorney General of Texas

Letter From Mark White

The concept of this Student Code of Conduct began before I became Attorney General when people around our State expressed their concern about the lack of discipline in our public schools. It was suggested to me by concerned citizens throughout Texas who expressed their hopes that a new Attorney General would attempt to resolve the growing problems of disruptiveness and violence in the classroom.

In February, 1980 my office sponsored a conference in Austin for the purpose of having an open exchange of ideas among a representative group of people concerned about the problem of classroom discipline. Over a thousand people came: teachers, parents, school administrators, students, educational resource personnel, members of the Texas Legislature, and other professional persons involved in our educational process. Participants traveled from across the State because they were so concerned that this problem be addressed in Texas while it still could be solved and had not reached the proportions that it has in other states.

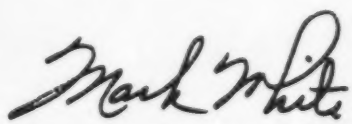
The conference became the genesis for the Code itself, which incorporates ideas from large and small school districts in urban, suburban and rural areas. Rough drafts of the Code were sent to school board members, school administrators, teachers, and representatives from the Texas Education Agency and the State Board of Education for their review and comments. I appreciate the time and effort which these people took to give me their comments and suggestions. Without their assistance, the Code could not have been developed.

The purpose of the Code, which is the result of over a year's work, is to provide a statement of the law as it pertains to school life and the rights and responsibilities of our students. Adaptation of the Code by local school districts will be on a voluntary basis. The Code may be used in whole or in part, according to the needs of each district.

Although the Code is grounded in the law, an attempt has been made to use clear, precise, everyday language that students, teachers, parents and school administration officials can understand. Legal terms and definitions also are included, however, in order to substantiate the ideas contained throughout the Code and for purposes of reference.

The preface to the Code contains guidelines for implementation. School administrators may use the Code both to design policy and to effect it. Classroom teachers will find in the Code support for their authority and for the accomplishment of their goals as they pursue a vocation so vital to us all. Students, I hope, will view the Code as a guide for good citizenship and for the role that they will play as adults in our society. If young people become informed of their rights and responsibilities as citizens early in life, they will be less likely as adults to become victims of our criminal justice system. Ultimately, a Code of Conduct is of little value unless its provisions are respected and enforced by everyone within the school community.

Finally, I hope that this Student Code of Conduct is one answer which our citizens were looking for when they asked me to help them find solutions to the problems of violence in the schools.



Attorney General of Texas

Letter From Joe Kelly Butler

The State Board of Education and the Texas Education Agency are pleased to cooperate with Attorney General Mark White in the development, publication, and distribution of this "Voluntary Student Code of Conduct."

The concept of the student code was originally outlined at the Attorney General's Conference on Solutions to Violence in the Schools in February 1980. Since that date, much time and effort have been spent in developing the code and in securing statewide suggestions relative to its content. General White is to be complimented for his leadership and perseverance in this effort.

This code provides a clear statement of the law and court cases relative to the rights and responsibilities of students. It could be adopted as policy by boards of trustees.

Part of the genius of our system of free public education is local control which provides that citizens elected by people of a community set educational policies for their school district. In recognition of this responsibility, the code can be adjusted or modified to meet local needs and conditions.

It is hoped that school districts, in tailoring the code to meet their particular situations, will focus attention on major issues and points of law. While some districts may be tempted to digress into minor issues at times, local rules must have a legitimate educational purpose and not be adopted or applied in an arbitrary or capricious manner.

It is sincerely hoped that students, parents, teachers, administrators, school board members, and other school employees will find this code helpful and informative.

Joe Kelly Butler

Joe Kelly Butler, Chairman
State Board of Education

Preface to Code

This Student Code of Conduct provides concise, workable rules and regulations pertaining to student conduct and discipline. School districts may adopt this code in its entirety, or combine parts of the code with their current discipline policies. In adapting the code for local use, school officials should keep the following points in mind:

- Certain code provisions are taken directly from state or federal statutes and/or case law. These provisions are set out in separate paragraphs which contain references to the source of the provision. These provisions cannot be altered. The other recommended code provisions may be adopted pursuant to the general authority of the board of trustees as set forth in Section 23.26 of the Education Code. These provisions contain the phrase "by this code." *Example:* "Students are prohibited by this code from being under the influence of alcohol while at school." Where applicable, the legal authority for these provisions is indicated. These provisions may be altered.

- In order to have legal effect in a school district, code provisions, as any other local policy, must be formally adopted by the board of trustees at a meeting which satisfies the requirements of the Open Meetings Law, article 6252-17, V.T.C.S. Portions of the code which are mandated by state or federal law are binding whether formally adopted or not.

- A district which adopts all or any part of this code must ensure that there is no conflict between the code provisions and its other policies and procedures. This is essential.

- It is recommended that districts seek input from administrators, teachers, parents, and students in adopting their student code of conduct. This will ensure greater support for the code. Once a code is adopted, its provisions should be published and made available to all within the school community.

- Each district should have its local attorney review and approve the code of conduct which it adopts.

- Finally, it must be remembered that the student code of conduct which is adopted will serve no purpose unless it is enforced. School officials must ensure that the provisions of its code of conduct, as well as any other policies and procedures in effect in the school district, are enforced fairly and equitably according to their letter and spirit.

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Introduction

The objective of this school district is to provide students with a quality educational program which encourages the acquisition, exchange, and application of ideas. This objective may only be achieved in an environment which promotes cooperation and is free from disruptions which interfere with the educational process. The district is committed to those rights of students recognized and protected under state and federal law, but it also expects students to behave in an appropriate manner and to contribute in a positive way to the school community. A proper balance between rights and responsibilities is essential if the distict is to provide an educational system which allows students to develop to their fullest potential.

Under the authority granted to the board of trustees in section 23.26 of the Texas Education Code, the board has adopted this code of conduct for use in the district's schools. The code is designed to inform students, parents, and school personnel of conduct rules applicable in this district.

The code:

- Describes a positive learning atmosphere.
- Specifies conduct that disrupts such an environment.
- Assures the rights and responsibilities of students and standardizes procedures to be used in responding to disciplinary problems.

Responsibilities of the School Community

Each member of the school community must fulfill certain responsibilities if a positive learning environment is to be achieved. A cooperative relationship among student, parent, and educator requires that:

Parents and/or Guardians

- Ensure their child's compliance with school attendance requirements and promptly report and explain absences and tardies to the school.
- Assist their child in being properly attired.
- Take an active interest in the overall school program.
- Communicate regularly with the school concerning their child's conduct and progress.
- Discuss report cards and work assignments with their child.
- Bring to the attention of school authorities any problem or condition which affects their child.
- Maintain up-to-date home, work, and emergency telephone numbers at the school.
- Cooperate with school administrators and teachers in their efforts to achieve and maintain a quality school system.

Students

- Attend all classes, daily and on time.
- Be prepared for each class with appropriate materials and assignments.
- Be properly attired.
- Exhibit an attitude of respect towards individuals and property and conduct themselves in a responsible manner.
- Refrain from making profane, insulting, threatening or inflammatory remarks, engaging in disruptive conduct, and cheating.
- Obey all school rules.
- Seek changes in school policies and regulations in an orderly and responsible manner, through approved channels.

School Personnel

- Maintain an atmosphere conducive to good behavior.
- Be in regular attendance and on time, and be prepared to perform their duties with appropriate working materials.
- Exhibit an attitude of respect toward individuals and property and conduct themselves in a responsible manner.

- Plan a flexible curriculum to meet the needs of all students.
- Promote effective training and discipline based upon fair and impartial treatment of all students.
- Encourage parents or guardians to keep in regular communication with the school and encourage parental participation in school affairs.
- Develop a cooperative working relationship among staff and students.
- Obey district and school policies and regulations.

Student Rights and Responsibilities

This section contains student conduct rules. Students have certain legal rights, but those rights must be balanced against the need to maintain an effective educational climate. These rules reflect an effort to balance the rights and responsibilities of students and school personnel.

Each subsection sets forth obligations of students to individuals and school property and general behavior requirements. These rules are enforceable as provided in this section and Section III, *Student Discipline.*

Law enforcement authorities may be contacted when deemed necessary to assist school officials in enforcing these provisions. When appropriate, judicial proceedings may be instituted (see Appendix "A"). Students are subject to disciplinary action as provided in this code regardless of whether judicial proceedings are instituted.

Offenses to Property

Individuals are prohibited by this code from vandalizing or otherwise damaging or defacing any property belonging to or rented by the district or by district schools.

Disciplinary action shall depend upon a careful assessment of all circumstances, including the nature and severity of the offense.

All individuals are subject to the following provisions of state law:

- *Section 33.01, Texas Family Code,* which provides that a parent or other person who has the duty of control and reasonable discipline of a child is liable for property damage proximately caused by (a) the negligent conduct of the child if such conduct is reasonably attributable to the negligent failure of the parent or other person to exercise that duty, or (b) the willful or malicious conduct of a child who is at least 12 but under 18 years of age.

- *Section 54.041, Texas Family Code,* which provides that when a minor engages in conduct which results in damage to district property, the district may institute formal charges for the purpose of having a juvenile court order the minor, or his parent, to make full or partial restitution to the district.

- *Section 28.04, Texas Penal Code,* which provides that a person commits a Class C misdemeanor if, without the effective consent of the owner, he recklessly damages or destroys property of the owner.

Offenses to the Person

Weapons

State law provides as follows:

- *Section 46.04, Texas Penal Code:* a person commits an offense if, with a firearm (defined in section 46.01) he intentionally, knowingly, or recklessly goes on the premises of a public school unless he has written authorization from the institution.

- *Section 4.31, Texas Education Code:* a person commits a felony if he interferes with the normal activities, occupancy, or use of any building or portion of a campus of a public school by exhibiting, using, or threatening to exhibit or use a firearm.

In addition to being subject to these statutes, individuals are prohibited by this code from bringing onto school property, or to school functions or events, knives, guns, or other weapons. Exceptions are permitted only when the individual has written authorization from a school official, i.e., for a classroom project.

The possession or use of articles which are generally not considered weapons may be prohibited when, in the judgment of school personnel, a reasonable apprehension of danger to the possessor, to others, or to school property exists by virtue of such possession or use.

A school employee who believes that an individual is in violation of these provisions shall contact the principal, who shall take appropriate action. The principal may seek assistance from law enforcement authorities. Generally, school employees should not seek to disarm an individual by force.

Assaults

State law provides as follows:

- *Section 22.01, Texas Penal Code:* an individual commits an assault when he or she:

  (a) Intentionally, knowingly, or recklessly causes bodily harm to another;

  (b) Intentionally or knowingly threatens another with imminent bodily injury;

  (c) Intentionally or knowingly causes physical contact with another when the student knows or should reasonably believe that the other will regard the contact as offensive or provocative.

An offense under (a) is a class A misdemeanor. When committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee engaged in performing educational duties, an offense under (b) and (c) is a class B misdemeanor.

- *Section 22.04, Texas Penal Code:* a person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence, engages in conduct that causes serious bodily injury, serious physical or mental deficiency or impairment, disfigurement or deformity, or bodily injury to a child who is 14 years old or younger.

In addition to being subject to these statutes, students are prohibited by this code from assaulting any other student or any school employee, regardless of whether named above.

General Conduct

Student Activities

The district encourages students to participate in school-sponsored clubs and activity programs which represent their interests. State law, however, sets forth certain limitations in this area:

- *Section 4.20, Texas Education Code,* prohibits students from joining any fraternity, sorority, or secret society, defined as "any organization [except the agencies for the public welfare therein specified] composed wholly or in part of pupils of public schools below the rank of college or junior college . . . which seeks to perpetuate itself by taking in additional members from the pupils enrolled in such school on the basis of the decision of its membership rather than upon the free choice of any pupil in the school who is qualified by the rules of the school to fill the special aims of the organization."

- *Section 4.20, Texas Education Code,* provides that persons not enrolled in public school are prohibited from soliciting any student to join or to pledge to join any fraternity, sorority, or secret society, or soliciting any student to attend a meeting thereof, or any meeting where membership therein is encouraged. Persons violating this provision are guilty of a misdemeanor.

Hazing

- *Section 4.19, Texas Education Code* (which only applies to *universities*) considers "hazing" as, among other things, any willful act done by a student, whether individually or in concert with others, to another student for the purpose of subjecting such student to humiliation, intimidation, physical abuse or threats of abuse, social or other ostracism, shame, or disgrace. This definition of hazing is adopted for purposes of this policy.

Students are prohibited by this code from initiating or engaging in hazing, or encouraging or assistng any other person in hazing. However, harmless activities which are part of the initiation rites of a school, club or organization are permitted, provided students secure advance permission from school officials to engage in such activities.

Student Publications

Subject to the following restrictions, students may post and/or distribute newspapers, magazines, leaflets, pamphlets, and similar materials on school premises.

- Reasonable regulations governing the time, place, and manner of the posting and/or distribution may be promulgated by each school principal. Such regulations shall be made available to students.

- The posting and/or distribution of material may be restricted or prohibited when, in the judgment of the principal, substantial disruption of school operations would likely result.

  Each principal shall determine whether the likelihood of substantial disruption is sufficient to warrant restrictions on the posting or distribution of these materials. Material which is controversial or unpopular, but which is not reasonably likely to result in substantial disruption of normal school operations, may not be prohibited on that ground alone. Moreover, a mere apprehension of disturbance is not sufficient to justify restrictions on a student's otherwise legitimate right to freedom of expression. *Tinker v. Des Moines ISD,* 393 U.S. 503 (1969).

  Whether the content of material is such that the material is acceptable for posting and/or distribution shall be determined in accordance with the following standards:

  - Material may not be prohibited on grounds of objectionable language if the same or similar language can be found in material made available to students in school assignments or through school facilities, such as the school library.

  - Libel may be prohibited. As regards school officials, libelous material is that which contains defamatory falsehoods made with knowledge of their falsity or reckless disregard of their truth.

  - Material criticizing school officials or advocating violation of school rules may be prohibited when, in the reasonable judgment of the principal, substantial disruption of normal school operations would likely result.

  - Material attacking any individual or group on the basis of gender, race, creed, ethnicity or religion may be prohibited when, in the reasonable judgment of the principal, substantial disruption of normal school operations would likely result.

Literature intended for posting and/or distribution on school premises shall first be reviewed according to these standards:

- Material shall be submitted to the principal, who shall approve or disapprove the material within twenty-four (24) hours.
- An adverse ruling may be appealed to the superintendent, who shall rule on the appeal within three (3) days.
- An adverse ruling by the superintendent may be appealed to the school board, which shall place the matter on the agenda for the next regular or special board meeting.

(These regulations are based upon the following cases: *Tinker v. Des Moines Ind. School District,* 393 U.S. 503 (1969); *Gertz v. Robert Welch, Inc.,* 418 U.S. 323 (1974); *Papish v. Board of Curators,* 410 U.S. 667 (1973); *Sullivan v. Houston Ind. School District,* 475 F. 2d 1071 (5th Cir. 1973); *Shanley v. Northeast Ind. School District,* 462 F. 2d 960 (5th Cir. 1972). *See Also Healy v. James,* 408 U.S. 169 (1972); *Brandenburg v. Ohio,* 395 U.S. 444 (1969); *Chaplinsky v. New Hampshire,* 315 U.S. 568 (1942).)

Possession or Use of Tobacco

- *Section 48.01, Texas Penal Code,* provides that a person commits an offense (class C misdemeanor) if he is in possession of a burning tobacco product or smokes tobacco in a public primary or secondary school, except within an area designated for smoking tobacco. The failure to display a reasonably sized notice stating that smoking is prohibited by state law in such public place, and that an offense is punishable by a fine not to exceed $200, provides a defense to prosecution under this provision.

In this district, students below the level of senior high school are prohibited by this code from possessing and/or using tobacco products (including, but not limited to, cigarettes, cigars, pipes, snuff, or chewing tobacco) on school premises or at school-related functions.

In the senior high school, students may use tobacco only in areas specifically designated for such use. Each principal shall determine which areas shall be set aside and the extent to which tobacco may be used in these areas.

Alcohol and Drugs

While on school grounds, while attending a school function, or while en route to or from school or a school function in transportation made available by the district, students are prohibited by this code from possessing, using, selling, attempting to sell, or being under the influence of: an alcoholic beverage; an inhalant or other substance used to induce intoxication; marijuana; an hallucinogenic, amphetamine, or barbiturate; or any other substance prohibited under the Texas Controlled Substances Act or the Federal Drug Abuse Prevention Control Act.

A student who possesses or is under the influence of a drug authorized by a licensed physician through a prescription specifically for that student's use shall not be considered to have violated this provision.

State law *(Section 4.22, Texas Education Code)* provides that the possession of any intoxicating beverage for consumption, sale, or distribution while on the grounds or in a building of any school in the district or while entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a school in the district is being held constitutes a class C misdemeanor.

General Disruption

Discipline and order shall be maintained during school hours and at school events. While students have a qualified right of expression, that right must be balanced against the need to maintain an effective educational environment.

State law provides as follows:

- *Section 4.30, Texas Education Code:* no person may willfully engage in disruptive activity or disrupt a lawful assembly on the campus or property of any public school. "Disruptive activity" is defined as:
  - obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
  - seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity;
  - preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the school administration;
  - disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
  - obstructing or restraining the passage of any person at an exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.
  - A lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.
  - These provisions shall not be construed to infringe upon any right of free speech or expression guaranteed by the Constitutions of the United States or the State of Texas.
- *Section 4.33, Texas Education Code:* any person who, on school property or on public property within 500 feet of school property, either alone or in concert with others willfully disrupts the conduct of classes or other school activities is guilty of a misdemeanor.
  - "School property" includes public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by a school for assemblies or other school-sponsored activities.
  - "Public property" includes any street, highway, alley, public park, or sidewalk.
  - Conduct which disrupts the educational activities of a school includes emission by any means of noise of an intensity which prevents or hinders classroom instruction; enticement or attempted enticement of students away from classes or other school activities which a student is required to attend; and prevention or attempted prevention of students from attending classes or other school activities which students are required to attend.*

*House Bill 1703 by Representative Carlyle Smith is currently pending before the 67th Texas Legislature. It amends section 4.33 of the Texas Education Code by adding paragraph (b)(3)(D) which would prohibit an individual from entering a classroom without the consent of either the principal or teacher and through acts of misconduct and/or use of loud and profane language causes disruption of class activities.

School officials may institute appropriate judicial proceedings to enforce these provisions or any other law or ordinance pertaining to disorder, loitering, or other unlawful conduct or activity affecting the public schools.

In addition to the offenses proscribed by these statutes and other code provisions, students are prohibited by this code from:

- Cheating or copying the work of another student.
- Throwing objects that can cause bodily injury or damage property.
- Leaving school grounds when not permitted to do so.
- Directing profanity, vulgar language, or using obscene gestures towards students or school personnel.
- Substantially interfering with classes or school activities, i.e., through boycotts, sit-ins, or trespassing.
- Failing to comply with lawful directives issued by school personnel and/or school policies, rules and regulations.
- Committing robbery or theft.
- Engaging in misconduct, as defined by school district policies or regulations on school buses.
- Fighting.
- Committing extortion, coercion, blackmail, i.e., obtaining money or other object of value from an unwilling person, or forcing an individual to act through the use of force or threat of force.
- Engaging in verbal abuse, i.e., name-calling, ethnic or racial slurs, or derogatory statements addressed publicly to others which may precipitate substantial disruption of the school program or incite violence.

School officials may also prohibit by policy other conduct which is likely to result in substantial disorder or invasion of the rights of others.

Student Discipline

This section identifies permissible disciplinary responses to established violations of the provisions in Section II, *Rights and Responsibilities,* or other district policies or rules.

When imposing discipline, school personnel shall adhere to the following general guidelines:

- The district's objective is to educate students. Discipline shall be administered only when necessary to protect students, school employees or property, or to maintain essential order and discipline.
- Disciplinary action should not be "punitive" per se, but should be designed to correct the misconduct of the individual student and to promote compliance of all students with district rules and regulations.
- Students shall be treated fairly and equitably. Discipline shall be based upon a careful assessment of the circumstances of each case, i.e., the seriousness of the offense, the student's age, the frequency of misconduct, the student's attitude, and the potential effect of the misconduct upon the school environment.
- Discipline shall never be administered so as to ridicule a student, nor be imposed maliciously.

In addition to the statutory penalties prescribed in the statutes set forth in Section II or in other applicable law, students who commit an offense proscribed in Section II are subject to:

- Counseling by teachers, special services, or administrative personnel
- Parent/guardian-teacher conferences
- Assigned school duties other than class tasks
- Verbal correction
- Withdrawal of privileges
- Detention
- Corporal punishment
- Suspension
- Judicial proceedings

Disciplinary responses shall be determined after thorough consideration of all relevant facts and circumstances. Discipline shall be appropriate to the offense committed. When administering discipline, school officials shall adhere to the guidelines set forth above and to the procedures established in the following sections.

Detention

Preceding detention, a student shall be afforded an opportunity to explain his or her actions. Additionally, notice must first be given to the student's parent or guardian to permit suitable alternative arrangements for the student's transportation to be made. The parent or guardian of a minor student shall be responsible for the transportation of that student when detained for disciplinary purposes.

Students under detention shall be supervised by a member of the professional staff. The time which the student spends for disciplinary detention should be used constructively for educational purposes.

Extenuating circumstances, i.e., a student's sole means of transportation is the regularly scheduled school bus, may make detention inappropriate. If detention is deemed inappropriate for this or any other reason, suitable alternative discipline may be imposed.

Corporal Punishment (See Appendix "B")

Corporal punishment is any type of punishment or correction administered to a student's body.

Corporal punishment shall be administered only after less stringent disciplinary measures have been attempted. Before corporal punishment is administered, the student shall be informed of the offense and be afforded an opportunity to explain his or her actions.

Corporal punishment shall be:

- Limited to spanking or paddling.
- Administered only by the school principal, or his designee.
- Administered in a designated place out of the view of others.
- Witnessed by at least one other district professional employee.
- Administered only with an instrument approved by tha principal or his designee.
- Administered in a reasonable manner, with "reasonableness" to be determined on the basis of factors such as the size, age, and the physical, mental, and emotional condition of the student. (Note: if corporal punishment is deemed inappropriate, other, suitable discipline may be imposed)

A disciplinary record containing the name of the student, the nature of misconduct, the name of the witness(es) present, the date and time of the punishment, and other pertinent information shall be maintained.

(Basis: *Ingraham v. Wright,* 97 S. Ct. 1401 (1977); *Baker v. Owen,* 395 F. Supp 294 (M.D.N.C. 1975), *aff'd.,* 96 S. Ct. 210 (1975); *Ware v. Estes,* 328 F. Supp 657 (N.D. Tex. 1971).)

Suspension

A student may be suspended for:

- An offense proscribed in Section II of this code, in circumstances where suspension is deemed appropriate.
- Incorrigible conduct, defined in Sections 21.301 and 21.302 of the Texas Education Code as insubordination, viciousness, disorderliness, immorality, persistent violation of reasonable rules and regulations of the school which the student attends, or other persistent misbehavior which renders the student incorrigible.

Suspension is a severe disciplinary measure which shall ordinarily be imposed only when a student has committed serious misconduct or has persisted in other misconduct despite previous, less severe disciplinary measures.

The following provisions are applicable:

Teachers

A teacher may remove a student from class in order to maintain effective discipline in the classroom. The principal shall respond by employing disciplinary alternatives consistent with district policy.

A teacher may recommend for suspension, and remove from class immediately, any student who assaults that teacher on school property as defined in Section 4.23(b), Texas Education Code, or has been documented in that teacher's opinion to have interfered repeatedly with that teacher's ability to communicate effectively with the majority of students in the class. If suspension is recommended school officials shall proceed as follows:

- Within three class days following the student's removal from class, the principal shall schedule a hearing involving the principal or a designated representative, a parent or guardian of the student, the teacher, and the student. The hearing shall be conducted whether or not all requested parties attend, provided valid attempts have been made to require their attendance. Following the hearing, the principal may:

  - Return the pupil to class;

  - Suspend the student from that teacher's class;

  - Suspend the student from school. (If long-term suspension is deemed appropriate, the procedure governing long-term suspension set forth below shall be followed.)

The principal should not conduct a hearing if he or she is directly involved in the incident or otherwise chooses to excuse himself or herself. In this event, the principal should designate another school administrator to conduct the proceedings.

- **Subsequent Offenses.** If a student is alleged by the same teacher to have committed a second, third, or subsequent offense within the current term of school, the teacher may remove the student from class immediately and recommend that the student be suspended from the class or from school. School officials shall then proceed as provided above. If the principal determines that the student committed the misconduct alleged, then regardless of whether or not a suspension is imposed, the student may not return to the class during the current term of school without the teacher's approval. However, after a second offense the superintendent may, upon the request of the principal, return the student to the class, and after a third or subsequent offense the board of trustees may, upon the request of the principal and the superintendent, return the student to the class, notwithstanding the refusal of the teacher to approve such action.*

  Regardless of the decision at any hearing held under this Section, any party aggrieved by the decision may appeal to the superintendent and then to the board of trustees. (Basis: Section 21.301, Texas Education Code.)

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*Senate Bill 465 by Senator Carl Parker is currently pending before the 67th Texas Legislature. It amends section 21.301 of the Texas Education Code by adding paragraph (f), which would provide for the denial of credits for the semester for a student who is suspended for the balance of that semester.

Principals

The principal may suspend a student for other good cause, as defined in this code, in accordance with the following procedures.

- **Summary Suspension.** Summary suspension is immediate suspension in emergency situations where the student's continued presence in school clearly poses an immediate, continuing, and substantial danger to persons or property or disruption of the academic process. It may continue only until the short-term or long-term suspension provisions set forth below can be implemented.

- **Short-term Suspension** (not exceeding ten days):

  - The student shall be given oral or written notice of the charges. If the student denies the charges, the principal or his designee shall give the student an explanation of the evidence and an opportunity to present his side of the story in an informal hearing.

  - If there is substantial evidence that the student committed the alleged offense, suspension may be imposed.

  - If the principal suspends the student, the parents shall be informed.

- **Long-term Suspension** (in excess of ten days but not to exceed the current term of school):

When a student is alleged to have committed an offense warranting long-term suspension, the following procedures are applicable:

  - Summary suspension may be imposed under the circumstances described above.

  - The principal shall proceed in accordance with the procedures for short-term suspension provided. If the principal determines that the student is guilty of the alleged offense and that suspension is warranted, he may impose a suspension of not to exceed ten days.

  - If the principal also determines that long-term suspension is appropriate he shall forward to the superintendent a written recommendation to that effect. The superintendent may decide not to pursue this recommendation, in which event no further proceedings need be conducted. If the superintendent decides to pursue the recommendation, he shall proceed immediately to ensure that the matter is placed upon the agenda at a regular or, where necessary, special meeting of the board of trustees. He shall then ensure that the student and his or her parent or guardian shall:

    - Receive a written statement setting forth the charges in enough detail that they may understand the charges and be able to prepare a defense.

    - Be informed of the nature of the testimony to be given and the names of witnesses who will appear. Names of students may not be divulged when there is sufficient reason to believe that the student(s) might be subjected to retaliation.

    - Be notified of the date, time and place of an impartial hearing before the school board. Sufficient time to prepare an adequate defense shall be allowed. The date of the hearing may be advanced or postponed upon showing of good cause.

    - At the hearing, be afforded the right to present evidence in their behalf, including witnesses, and to cross-examine opposing witnesses.

Following the hearing, the board shall make and announce its decision, which shall be based upon the evidence adduced at the hearing. The board may increase the suspension within limits permitted by law,

or impose no further suspension. The board shall cause its decision to be communicated to the student and parents in writing.

- *Appeal to Commissioner of Education.* If aggrieved by the decision of the board, the student, parent or guardian may appeal further by filing a written notice of intent to appeal with the State Commissioner of Education within thirty days after the decision of the board of trustees is communicated to them, as provided in the *Procedures on Hearings and Appeals* published by the Texas Education Agency.

- *Suspension or Temporary Change in Placement of Special Education Students:*

  State Board of Education Administrative Procedure 35.72.070(5), provides that a student who is handicapped may be temporarily moved to a more restrictive environment or suspended if the student's behavior warrants such action. Suspension requires prior consultation with a special education teacher or special education support person. When moving the student to a more restrictive environment or when suspending a student, the Admissions, Review and Dismissal Committee (ARD) must document as soon as possible that:

  - The student's behavior was not caused by the handicapping condition, and

  - Adjustments in the student's Individualized Education Program (IEP), including alternative educational placements, have been considered in an attempt to prevent recurrence of the undesired behavior.

Due process shall be provided. (See policies pertaining to suspension.) The district shall continue to provide educational services to an eligible handicapped student except when the student is incarcerated or has been released from all educational services in accordance with State Board of Education Administrative Procedure 35.72.070(4).

School officials are required by this code to observe the following general guidelines when suspension of a student who is handicapped appears warranted:

- Students should not be suspended if their misconduct results from their handicapping condition. When suspension is considered, an ARD committee meeting should be called to determine whether the misconduct did result from the handicapping condition.

- If the ARD committee determines that the activities do not result from the student's handicapping condition, the district may proceed with its regular disciplinary procedures.

- The student should remain in school pending the decision of the ARD committee unless the student presents a danger to himself or herself, other students, school personnel or school property.

- If the ARD committee determines that the activities do result from the handicapping condition, the committee should institute a review of the student's IEP to determine whether changes in the student's educational placement are warranted.

Alternative Placement

As an alternative to suspension from school, school administrators may, when appropriate, place students in in-school suspension. The superintendent shall assume responsibility for developing and implementing administrative procedures governing the operation of such programs.

Students who are alleged to have committed an infraction that would warrant placement in the district's in-school or alternative placement program shall be entitled to the following procedural safeguards:

- The student shall be informed of the charges.
- If the student denies the charges, the student shall be afforded an opportunity to present his or her version of the facts.
- If there is substantial evidence that the charges are valid, and in-school or alternative placement is deemed appropriate under the circumstances, an order to that effect shall be issued.

Posting of Offenses

A list indicating each offense committed and the discipline imposed, with the name or any other reference to individual students omitted, shall be posted on the bulletin board in the administrative offices of the school in which the offense was committed.

Appendix A

This section provides an overview of the process by which judicial proceedings may be instituted when individuals commit acts prohibited by law.

In addition to school conduct rules, students are subject to requirements set forth in local ordinances and state and federal law. When students or nonstudents engage in illegal conduct, school officials may consult law enforcement authorities and attempt to institute judicial proceedings. The method for instituting such proceedings depends upon whether the offender is a child or an adult.

To determine whether an offender is a "juvenile" who may be prosecuted in juvenile court or an adult who may be prosecuted in criminal court, one must refer to Section 51.02 of the Family Code [references throughout are to the Family Code]. A "child" is defined therein as a person who is (1) at least 10 but under 17 years old, or (2) at least 17 but under 18 years old, who is charged with or found to have committed delinquent conduct or conduct indicating a need for supervision (defined below) as a result of an act committed before becoming 17 years old.

Juvenile courts only have jurisdiction over children. A criminal court has no jurisdiction over offenses defined as "delinquent conduct" or "conduct indicating a need for supervision." The individual's age at the time of the offense controls; thus, an act defined as delinquent conduct or conduct indicating a need for supervision committed by a person before he becomes 17 years old is handled in juvenile court. Juvenile courts lose jurisdiction of children when they reach 18 years of age.

"Conduct indicating a need for supervision" is defined in Section 51.03 as (among other things) conduct, other than a traffic offense, which on three or more occasions violates state penal laws of the grade of misdemeanor which are punishable by fine; or penal ordinances of a political subdivision; or the unexcused voluntary absence of a child from school on 10 or more days or parts of days within a 6-month period or three or more days or parts of days within a four-week period. [Note: absences are excused when they result from illness or death in the child's family; quarantine of the child and family; weather or road conditions making travel dangerous; an absence approved by a teacher, principal, or superintendent in the child's school; or other circumstances found reasonable and proper.]

"Delinquent conduct" is conduct, other than a traffic offense, that violates a state penal law punishable by confinement in jail or imprisonment, or a lawful order of a juvenile court entered under Section 54.04 or 54.05.

Under Section 52.01, a child may be taken into custody pursuant to an order of a juvenile court or under laws of arrest; or by a law enforcement officer if there are reasonable grounds to believe the child has engaged in delinquent conduct or conduct indicating a need for supervision; or by a probation officer if there are reasonable grounds to believe the child has violated a condition of probation. Under certain circumstances, a law enforcement officer may issue a warning notice to a child in lieu of taking the child into custody. A person taking a child into custody must, without unnecessary delay: release the child to his parent or guardian upon that person's promise to bring the child before the juvenile court when requested; or bring the child to the office or officials designated by the juvenile court, to a detention facility designated by the juvenile court, or to a medical facility if necessary; or dispose of the case without referral to juvenile court. *See* Section 52.03.

The remaining sections of the Family Code set forth the procedures that must be followed when a child's case is referred to juvenile court.

In short, a child who engages in vandalism of district property, commits an assault on school personnel, habitually violates compulsory attendance requirements, or engages in other activity affecting the schools which is prohibited by law, may be dealt with under the Family Code (as supplemented by other statutes). School officials may seek to have the child taken into custody, as explained above, and may then refer the matter to juvenile court for prosecution. This applies whether the child is a student or nonstudent. An individual who is not a "child" within the meaning of the Family Code may be prosecuted in criminal court.

Appendix B

The corporal punishment section in the main draft reflects the opinion of the majority of those who responded to the questionnaire. However, because of the controversial nature of this subject, two alternative approaches are set forth below. Districts which elect not to utilize the approach contained in the main body should consider using one of these approaches.

Alternative #1

Corporal punishment, which is any type of punishment or correction administered to a student's body, is prohibited. School employees who utilize corporal punishment and thereby violate this provision are subject to appropriate disciplinary action, including dismissal if the circumstances warrant such action.

Alternative #2

Corporal punishment is any type of punishment or correction administered to a student's body.

Corporal punishment shall be administered only after less stringent disciplinary measures have been attempted. Before corporal punishment is administered, the student shall be informed of the offense and be afforded an opportunity to explain his or her actions.

Corporal punishment shall be:

- Limited to spanking or paddling.
- Administered only by the school principal, or his designee.
- Administered in a designated place out of the view of others.
- Witnessed by at least one other district professional employee.
- Administered only with an instrument approved by the principal or his designee.
- Administered in a reasonable manner, with "reasonableness" to be determined on the basis of the size, age, and the physical, mental, and emotional condition of the student. [Note: These factors may render corporal punishment inappropriate in a particular instance.]

Corporal punishment shall not be used in instances where a student's parent or guardian has filed a written statement with the school district indicating that he or she does not approve the use of such discipline as regards his or her child. Students who are exempt from corporal punishment under this policy shall be subject to appropriate alternative disciplinary action.

A disciplinary record containing the name of the student, the nature of misconduct, the type of corporal punishment administered, the name of the witness or witnesses present, and the date and time of the punishment shall be maintained.

Responsibilities of Students in Elementary School

Your school district has adopted a set of conduct rules. The rules do not allow you to:

- Damage school property.
- Have weapons, such as knives or guns, at school or at school events.
- Have tobacco, such as cigarettes or snuff, at school or at school events.
- Have or be under the influence of alcohol, marijuana, or prohibited drugs, at school or at school events.
- Assault students or school employees or get involved in fights.
- Cheat or copy the work of another student.
- Use curse words or obscene gestures, be disrespectful, or disobey school rules.
- Throw objects in class.
- Steal someone else's property.
- Engage in misconduct on school buses.
- Leave school grounds when not allowed to do so.

If you violate these rules, you may be:

- Counseled by teachers and other school personnel.
- Asked to meet with your teacher and your parent or guardian.
- Assigned school duties or extra classwork.
- Lose your privileges.
- Told to stay after school.
- Paddled.
- Suspended.

The complete set of student conduct rules can be found in the student code of conduct, which is available in the administrative offices.

Responsibilities of Students in Junior High School

Your school district has adopted a set of conduct rules for students. The rules explain the rights and duties of students and the kinds of action that may be taken when students break the rules.

The rules do not allow you to:

- Vandalize, damage or destroy school district property.
- Have weapons, such as knives or guns, at school or at school events.
- Assault or attack any student or school employee.
- Have tobacco products, such as cigarettes or snuff, at school or at school events.
- Have or be under the influence of alcohol, marijuana, or drugs not allowed by school rules at school or school events.
- Post or hand out newspapers or other unofficial publications on school grounds except as allowed by school rules.
- Cheat or copy another student's work.
- Use curse words or obscene gestures, or engage in verbal abuse, such as name-calling, ethnic or racial insults, or insulting statements toward others.
- Break school conduct rules on school buses.
- Fail to comply with orders issued by school personnel.
- Leave school grounds when not allowed to do so.
- Act in other ways which disrupt the class, and fail to follow other school rules.

When you break the rules, one or more of these things might happen. You may:

- Talk with your teacher or other person such as counselor or principal.
- Have a conference with your teacher and your parent or guardian.
- Be assigned school duties other than class tasks.
- Be told to behave.
- Lose your privileges.
- Have to stay after school.
- Be paddled.
- Be suspended.

These are some of the school rules. This is not all of them. You can learn more about the school rules in the copy kept in the school office.

Responsibilities of Students in Senior High School

Your school district has adopted a student code of conduct. The code explains the rights and duties of students and the kinds of action that may be taken when students violate its provisions. Following is a general summary of certain provisions of the code. Details may be found in the complete student code of conduct which is available in the administrative offices.

Students are prohibited from:

- Vandalizing or otherwise damaging or destroying school property.
- Possessing weapons, such as knives or guns, on school grounds or at school events.
- Assaulting a student or school employee.
- Using tobacco products, such as cigarettes or snuff, at school or at school events, except in areas set aside in each school for such use.
- Possessing or being under the influence of alcohol, marijuana, amphetamines, barbituates, or other drugs prohibited by district policy, at school or at school events.
- Posting or distributing newspapers, leaflets, and similar materials on school grounds except as allowed by district policies.
- Cheating or copying the work of another student.
- Using profanity, vulgar language, or obscene gestures. Engaging in verbal abuse, such as name-calling, racial or ethnic slurs, or derogatory statements toward others.
- Committing or attempting to commit theft, or extortion, or blackmail, i.e., obtaining or attempting to obtain something of value from an unwilling person.
- Fighting.
- Engaging in conduct prohibited by school rules on school buses.
- Failing to comply with lawful directives issued by school personnel. Failing to comply with other school policies and rules.

Disciplinary action may include:

- Counseling by teachers or administrative personnel.
- Parent/guardian-student-school personnel conference.
- Assignment of school duties other than class tasks.
- Verbal correction.
- Detention.
- Withdrawal or privileges.
- Corporal punishment.
- Suspension.